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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,389	02/06/2002	John S. Murphy	RYL 2 0792	8507
7590	12/24/2003		EXAMINER	
Jay F. Moldovanyi, Esq. Fay, Sharpe, Fagan, Minnich & McKee, LLP 7th Floor 1100 Superior Avenue Cleveland, OH 44114-2518			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 12/24/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/068,389	MURPHY ET AL.	
	Examiner	Art Unit	
	Terrence R. Till	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 15-21 is/are allowed.
- 6) Claim(s) 1-14 and 22-25 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4 IDS tot</u> .	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-14, 22, 24 and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese patent to Tokyo Electric.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent to Tokyo Electric in view of Ataka et al.

7. The Japanese patent to Tokyo electric discloses all the recited subject matter, including a housing 2 having a cavity (not shown) connected to the nozzle head, via a hose 4. The patent to Tokyo Electric does not disclose a dust cup received in the cavity. The patent to Ataka et al discloses a canister-type vacuum cleaner similar to Tokyo Electric's in which in the housing there is a dust cup 6 which has a filter assembly 8,9 mounted within the dust cup. It would have been obvious to a person skilled in the art at the time the invention was made to substitute the dust cup of Ataka et al. into the device of Tokyo Electric's canister vacuum in order to dispose of dust in a simple and clean manner for increasing the efficiency of dust removal (see Ataka et al., Column 1, lines 24-30).

Allowable Subject Matter

8. Claims 15-21 are allowed.

9. The following is an examiner's statement of reasons for allowance: The prior art does not disclose nor render obvious the claimed combination of subject matter of a floor nozzle for a vacuum cleaner, comprising: a base plate; a top cover connected to said base plate; a left nozzle head including at least one central dirt path ring, wherein said at least one left nozzle central dirt path ring is rotatably secured between said base plate and said top cover; a right nozzle head

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including at least one central dirt path ring, wherein said at least one right nozzle central dirt path ring is rotatably secured between said base plate and said top cover; and said at least one left nozzle central dirt path ring and said at least one right nozzle central dirt path ring are vertically aligned and define a central dirt path.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Scian et al., German patent to Zachhuber and Japanese patent to Son et al. show the current state of the art in nozzle construction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. Till whose telephone number is (703) 308-1592.

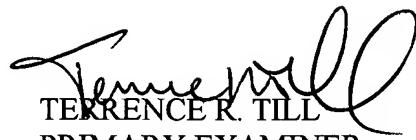
Any inquiry of a general nature concerning the status of this application should be directed to the receptionist of Technology Center 2 whose telephone number is (703) 308-0661.

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Any responses made by facsimile should be addressed to T. Till at (703) 872-9310.

In mid-December of 2003, the examiner will be moving locations and changing phone numbers. The following information will apply:

New phone number: (571) 272-1280



TERRENCE R. TILL
PRIMARY EXAMINER
ART UNIT 1744

trt

December 15, 2003